

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 979

H. P. 823

House of Representatives, February 24, 1981

Referred to the Committee on Labor. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Hobbins of Saco.

Cosponsors: Representative Beaulieu of Portland and Representative McHenry of Madawaska.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT Providing Collective Bargaining Rights to Judicial Employees.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 26 MRSA § 979, as enacted by PL 1973, c. 774, is amended to read:

§ 979. Purpose

It is declared to be the public policy of this State and it is the purpose of this chapter to promote the improvement of the relationship between the State of Maine and its employees, and between the **Judicial Department of the State and its employees**, by providing a uniform basis for recognizing the right of state employees and **judicial employees** to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms and conditions of employment.

Sec. 2. 26 MRSA § 979-A, sub-§ 4-A is enacted to read:

4-A. **Judicial employee.** "Judicial employee" means any employee of the **Judicial Department of the State performing services within the department, except any person:**

A. **Elected by popular vote;**

- B. Appointed to office pursuant to statute for a specified term by the Governor;**
- C. Whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship with respect to matters subject to collective bargaining, as between such person and the Chief Justice;**
- D. Who is a temporary, seasonal or on-call employee; or**
- E. Who has been employed for less than 30 days.**

Sec. 3. 26 MRSA § 979-A, sub-§ 5, as enacted by PL 1973, c. 774, is repealed and the following enacted in its place:

**5. Public employer. "Public employer" means all the departments, agencies and commissions of the executive branch of the State represented by the Governor or his designee, or the Judicial Department of the State represented by the Chief Justice of the Supreme Court or his designee. In the furtherance of this chapter, the State and Judicial Department shall be considered, respectively, as single employers, and employment relations, policies and practices throughout the state service shall be as consistent as practicable. In the case of state employees, it is the responsibility of the executive branch to negotiate collective bargaining agreements and to administer these agreements. In the case of judicial employees, it is the responsibility of the judicial branch to negotiate collective bargaining agreements to administer these agreements. To coordinate the employer position in the negotiation of agreements in regard to state employees, the Legislative Council or its designee shall maintain close liaison with the Governor or his designee representing the executive branch relative to the negotiation of cost items in any proposed agreement. The Governor's office or its designee is responsible for the employer functions of the executive branch under this chapter, and shall coordinate its collective bargaining activities with operating agencies on matters of agency concern. The Chief Justice or his designee is responsible for the employer functions of the judicial branch to act upon those portions of tentative agreements negotiated by the executive branch or the judicial branch which require legislative action.**

Sec. 4. 26 MRSA § 979-B, as enacted by PL 1973, c. 774, is amended to read:

**§ 979-B. Right of state or judicial employees to join labor organizations**

No one shall may directly or indirectly interfere with, intimidate, restrain, coerce or discriminate against state or judicial employees or a group of state employees in the free exercise of their rights, hereby given, voluntarily to join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining, or in the free exercise of any other right under this chapter.

Sec. 5. 26 MRSA § 979-C, sub-§ 2, first sentence, as enacted by PL 1973, c. 774, is amended to read:

State and judicial employees, State employee organizations, their agents, members and bargaining agents are prohibited from:

Sec. 6. 26 MRSA § 979-D, sub-§ 1, ¶ E, sub-¶ (1), div. (f), as enacted by PL 1973, c. 774, is amended to read:

(f) Rules and regulations for personnel administration, except the following: Rules and regulations relating to applicants for employment in state or judicial service and state classified employees in an initial probationary status, including any extensions thereof, provided such rules and regulations are not discriminatory by reason of an applicant's race, color, creed, sex or national origin.

Sec. 7. 26 MRSA § 979-D, sub-§ 4, ¶ C, sub-¶ ¶ (5), (6) and (7), as enacted by PL 1973, c. 774, are amended to read:

- (5) The need of State Government and the Judicial Department for qualified employees;
- (6) Conditions of employment in similar occupations outside State Government or the Judicial Department;
- (7) The need to maintain appropriate relationships between different occupations in State Government or in the Judicial Department; and

Sec. 8. 26 MRSA § 979-E, sub-§ 2, as amended by PL 1975, c. 612, § 1, is further amended to read:

2. In order to insure to employees the fullest freedom in exercising the rights guaranteed by this chapter, to insure a clear and identifiable community of interest among employees concerned, and to avoid excessive fragmentation among bargaining units in State Government and in the Judicial Department, the executive director of the board or his designee shall decide in each case the unit appropriate for purposes of collective bargaining.

Sec. 9. 26 MRSA § 979-F, sub-§ 1, first sentence, as enacted by PL 1973, c. 774, is amended to read:

Any state employee organization may file a request with the public employer alleging that a majority of the state or judicial employees in an appropriate bargaining unit wish to be represented for the purpose of collective bargaining between the public employer and the employees' organization.

Sec. 10. 26 MRSA § 979-F, sub-§ 2, ¶ A, first sentence, as amended by PL 1975, c. 612, § 2, is further amended to read:

The executive director of the board or his designee upon signed request of a public employer alleging that one or more state or judicial employees or state employee organizations have presented to it a claim to be recognized as the representative of a bargaining unit of state employees or a bargaining unit of judicial employees, or upon signed petition of at least 30% of a bargaining unit of state employees or of a bargaining unit of judicial employees that they desire

to be represented by an organization, shall conduct a secret ballot election to determine whether the organization represents a majority of the members of the bargaining unit.

**Sec. 11. 26 MRSA § 979-F, sub-§ 2, ¶ B, first sentence**, as enacted by PL 1973, c. 774, is amended to read:

The ballot shall contain the name of such organization and that of any other organization of showing written proof of at least 10% representation of the state employees within the unit, **or of the judicial employees within the unit**, together with a choice for any state **or judicial** employee to designate that he does not desire to be represented by any bargaining agent.

**Sec. 12. 26 MRSA §979-H, sub-§ 1, first sentence**, as enacted by PL 1973, c. 774, is amended to read:

The board is empowered, as provided, to prevent any person, the public employer, any state employee, **any judicial employee**, any state employee organization or any bargaining agent from engaging in any of the prohibited acts enumerated in section 979-C.

**Sec. 13. 26 MRSA § 979-H, sub-§ 2, first sentence**, as enacted by PL 1973, c. 774, is amended to read:

The public employer, any state employee, **any judicial employee**, any state employee organization or any bargaining agent which believes that any person, the public employer, any state employee, **any judicial employee**, any state employee organization or any bargaining agent has engaged in or is engaging in any such prohibited practice may file a complaint with the executive director of the board stating the charges in that regard.

**Sec. 14. 26 MRSA § 979-H, sub-§ 6**, as enacted by PL 1973, c. 774, is amended to read:

6. Whenever a complaint is filed with the executive director of the board, alleging that the public employer has violated section 979-C, subsection 1, paragraph F or alleging that a state employee, a judicial employee or state employee organization or bargaining agent has violated section 979-C, subsection 2, paragraph C, the party making the complaint may simultaneously seek injunctive relief from the Superior Court in the county in which the prohibited practice is alleged to have occurred pending the final adjudication of the board with respect to such matter.

#### STATEMENT OF FACT

This bill amends the State Employees Labor Relations Act to include employees of the Judicial Department, excluding judges, under its provisions. The Chief Justice of the Supreme Court or his designee will exercise the functions of the employer under this bill.